

IN RE: Application of Kiawah River Utility)
Company for Approval of Sewer Rates,) **STIPULATION**
Terms, and Conditions)

WHEREAS, Kiawah River Investment, LLC (“KRI”) is the developer of Kiawah River Development, and the sole owner of Kiawah River Utility Holdings, LLC (“KRUH”), which wholly owns KRUC;

WHEREAS; KRI, KRUH, and KRUC entered into a Memorandum of Understanding that was replaced with an Amended Memorandum of Understanding (“MOU”) to formalize the commitment of KRI to fund all utility operating deficits until there is a sufficient level of operating revenues or KRUC can attract capital;

WHEREAS, the Kiawah River Development is a proposed mixed-use community that would, once fully developed, include up to 1,285 homes; up to 450 guest rooms in hotels, inns, and/or villas; and 80,000 square feet of retail and/or office use;

WHEREAS, buildout of the Kiawah River Development began in 2019 and the utility company operations are expected to be completed in four (4) phases over the next twenty (20) years;

WHEREAS, upon completion of the first phase of the buildout, KRUC will operate as a NARUC Class C wastewater utility;

WHEREAS, KRUC has contracted with M.J. Agin & Associates (the “Operator Agreement”) to perform maintenance, repairs, and environmental compliance duties;

WHEREAS, KRUC has contracted with Guastella Associates, LLC (the “Management Agreement”) to manage KRUC’s record keeping, accounting, billing, customer service, financial, and regulatory matters;

WHEREAS, ORS is charged by law with the duty to represent the public interest of South Carolina pursuant to S.C. Code § 58-4-10(B) (Supp. 2018);

WHEREAS, ORS conducted an examination of the financial records of the Company relative to the matters raised in the Application and has conducted a site visit;

WHEREAS, the Company filed a Petition with the Commission on September 19, 2019, for the Approval of Contracts with the Utility Operator, the Utility Manager, and Parent/Developer pursuant to 26 S.C. Code Regs. R. 103-541;

WHEREAS, the Company provided ORS copies of the contracts for which it is seeking approval before filing the Application for Approval and ORS has reviewed the contracts and does not object to the contracts;

WHEREAS, the Parties engaged in discussions to determine if a stipulation would be in their best interests and, in the case of ORS, in the public interest; and,

WHEREAS, following those discussions, the Parties determined that their interests, and ORS determined that the public interest, would be best served by stipulating to an agreement regarding issues pending in the above-captioned case under the terms and conditions set forth herein;

**A. STIPULATION OF AGREEMENT, TESTIMONY AND WAIVER OF CROSS-
EXAMINATION**

1. The Parties agree to stipulate into the record before the Commission the pre-filed testimony and exhibits (collectively, the “Stipulated Testimony”) of the following witnesses without objection, change, amendment, or cross-examination with the exception of changes comparable to those that would be presented via an errata sheet or through a witness noting a correction consistent with this Stipulation. The Parties also reserve the right to engage in redirect examination of witnesses as necessary to respond to issues raised by the examination of their witnesses, if any, by the Commission or by any late-filed testimony.

KRUC witnesses:

1. Kevin O’Neill
2. John Guastella

3. Lyndell Cummins
4. Gary White

ORS witness:

1. Anthony Sandonato

2. The Parties agree to offer no other evidence in the proceeding other than the stipulated testimony and exhibits and this Stipulation unless the additional evidence is to support the Stipulation, consists of changes comparable to that which would be presented via an errata sheet or through a witness noting a correction or clarification, consists of a witness adopting the testimony of another if permitted by the Commission, or is responsive to issues raised by examination of the Parties' witnesses by Commissioners or by late-filed testimony. The Parties agree that nothing herein will preclude each party from advancing its respective positions in the event that the Commission does not approve the Stipulation.

3. The Parties hereby stipulate to the following terms, which if adopted by the Commission in its Order on the merits of this proceeding, will result in rates and terms and conditions of sewer service which are adequate, just, reasonable, nondiscriminatory, and supported by the evidence of record of this proceeding, and further result in the Commission's approval of the Operator Agreement, the Management Agreement, and the MOU.

B. REMAINING STIPULATION TERMS AND CONDITIONS

4. The Parties stipulate and agree KRUC must keep and maintain the performance bond in the amount of \$350,000 for sewer service filed with the Commission on July 12, 2019;

5. The Parties stipulate and agree KRUC's proposed monthly rate of \$85 per month per unit paid by customers in advance is just and reasonable;

6. The Parties stipulate and agree the terms set forth in KRUC's schedule for sewer service (Exhibit 6A to the Application, copy attached as Exhibit 1 hereto) are just and reasonable;

7. The Parties stipulate and agree to the sufficiency of the sample billing invoice attached as Exhibit 14 to the Application;

8. The Parties stipulate and agree KRI or KRUC will revise the disclosure under the Interstate Land Sales Full Disclosure Act furnished to all prospective purchasers of property within the Kiawah River Development to set forth the initial rates of service and to further state KRUC anticipates seeking increases in the rates in the future that would have to be approved by the South Carolina Public Service Commission;

9. The Parties stipulate and agree that ORS does not object to the Company's request for Commission approval of the Operator Agreement, the First Amendment to the Operator Agreement, the Management Agreement, and the MOU;

10. The Parties stipulate and agree KRUC is currently operating under a temporary permit that allows the Company to store the wastewater from the system in the aerated lagoon. Once the system wastewater flow reaches 4,000 gallons per day the Company will obtain final approval to operate from DHEC and commence the operation of the plant. KRUC will notify the Commission and ORS once the Company obtains final approval from DHEC and begins the operation of its wastewater treatment plant and will provide a copy of DHEC's final approval for operation to ORS and the Commission.

11. The Parties agree that this Stipulation is reasonable, is in the public interest, and is in accordance with law and regulatory policy. This Stipulation in no way constitutes a waiver or acceptance of the position of either of the Parties in any future proceeding. This Stipulation does not establish any precedent with respect to the issues resolved herein and in no way precludes any Party herein from advocating an alternative position in any future proceeding.

12. The Parties agree to cooperate in good faith with one another in recommending and advocating to the Commission that this Stipulation be accepted and approved by the Commission in its entirety as a fair and reasonable resolution of certain issues currently pending in the above-captioned proceeding and detailed here-in, and to take no action inconsistent with its adoption by the Commission. The Parties agree to use their best efforts to defend and support any Commission order issued approving this Stipulation and the terms and conditions contained herein.

13. The Parties agree that signing this Stipulation (a) will not constrain, inhibit, impair, or prejudice their arguments or positions held in future or collateral proceedings; (b) will not constitute a precedent or evidence of acceptable practice in future proceedings; and (c) will not limit the relief, rates, recovery, or rates of return that any Party may seek or advocate in any future proceeding. If the Commission declines to approve this Stipulation in its entirety, then any Party may withdraw from the Stipulation without penalty or obligation.

14. This Stipulation shall be interpreted according to South Carolina law.

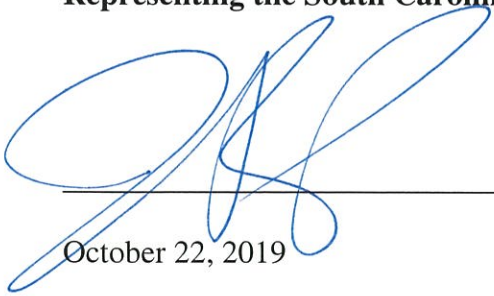
15. The Parties represent that the terms of this Stipulation are based upon full and accurate information known as of the date this Stipulation is executed. If, after execution, either Party is made aware of information that conflicts, nullifies, or is otherwise materially different than that information upon which this Stipulation is based, either Party may withdraw from the Stipulation with written notice to the other Party.

16. The above terms and conditions fully represent the agreement of the Parties hereto. Therefore, each Party acknowledges its consent and agreement to this Stipulation, by affixing its signature or by authorizing its counsel to affix his or her signature to this document where indicated below. Counsel's signature represents his or her representation that his or her client has authorized the execution of the agreement. Facsimile signatures and e-mail signatures shall be as effective as

original signatures to bind any Party. This document may be signed in counterparts, with the various signature pages combined with the body of the document constituting an original and provable copy of this Stipulation.

[PARTY SIGNATURES TO FOLLOW ON SEPARATE PAGES]

Representing the South Carolina Office of Regulatory Staff



October 22, 2019

Jeffrey M. Nelson, Esquire
Jenny R. Pittman, Esquire
Alexander W. Knowles, Esquire
1401 Main Street, Suite 900
Columbia, SC 29201
Phone: 803-737-0823
803-737-0794
803-737-0889
E-Mail: jnelson@ors.sc.gov
jpittman@ors.sc.gov
aknowles@ors.sc.gov

Representing Kiawah River Utility Company

G. Trenholm Walker

P.P. 

October 22, 2019

G. Trenholm Walker, Esquire
Thomas P. Gressette Jr., Esquire
Walker, Gressette, Freeman, & Linton, LLC
Post Office Box 22167
Charleston, South Carolina 29413
Phone: 803-727-2200
E-Mail: walker@WGFLAW.com
gressette@wgflaw.com

Solely with respect to Paragraph 8 of the Stipulation:

Representing Kiawah River Investment, LLC

G. Trenholm Walker

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gressette@wgflaw.com

KIAWAH RIVER UTILITY COMPANY

SCHEDULE

FOR

SEWER SERVICE

APPLICABLE

IN

“KIAWAH RIVER”

CHARLESTON COUNTY, SOUTH CAROLINA

Date of Issue: June 1, 2019
Revised: November 4, 2019

Effective Date: July 1, 2019

Issued By: John Darby, President

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GENERAL INFORMATION

1. Territory

“Kiawah River” Development – Mixed Use Residential/Resort Community

CHARLESTON COUNTY, SOUTH CAROLINA

2. Application for Sewer Service

Application for service will be required in accordance to South Carolina Code of Regulations 103-534.

3. Deposits

Deposits will be required in accordance to South Carolina Code of Regulations 103-531, 103-531.1, 103-531.2, 103-531.3, 103-531.4, 103-531.5, 103-531.6, 103-531.7.

4. General Rules

- A. Customers must provide 10 days' written or oral notice prior to the date on which termination of service is requested or prior to a change of occupancy, until which date the customer will be responsible for payment of service.
- B. The Company shall not be liable for any damage or expense resulting from leaks, stoppages or defective plumbing or from any other cause occurring to any premises, or within any house or buildings; and it is expressly stipulated by and between the Company and the Customer that no claims shall be made against the said Company on account of the breaking, stoppage or any damage or expense to any service lines on said property, when the cause thereof is found to be in that part of the service line lying on said property.
- C. The Company will not be liable for any claim or damage arising from a deficiency of service or discontinuance of service, the breaking of machinery or other facilities, or for any other cause. The Company reserves the right to rescind service whenever the public welfare may require it.
- D. The company may shut off sewer in its mains to make repairs and extensions. Where possible, proper advance notice will be made to customers affected.
- E. All leaks in consumer's service line and fixtures must be repaired promptly and by and at the expense of the consumer. After failure to repair leaks within five (5) days after notice to do so, the Company reserves the right to shut off consumer's service. The Company will not restore the service until all needed repairs have been made and until all charges incurred by the Company in shutting off and restoring the service have been paid.
- F. There must be a separate service lateral for each premises or unit.
- G. Installation of service pipes and mains will not normally be made during prohibitive weather conditions.

GENERAL INFORMATION

- H. The customer is responsible for service pipes and plumbing within the property line. Any plumbing work done on the customer's service pipe is subject to approval by the company. No underground work shall be covered up until it has been inspected and approved by the company.
- I. All mains, services (up to the property line) and other sewer system facilities will be maintained and replaced by the company.
- J. The Company Sewerage System is meant to provide sanitary collection and final disposal of domestic sewage and certain types wastes amenable to disposal in the Company's facilities. The Company reserves the right of approval of all wastes to be discharged to its system in specific conditions contained in Permits issued to the Company by environmental regulatory authorities.
- K. Where an applicant is seeking service at an elevation or gradient which could not otherwise be adequately serviced by existing plant, the company will require that the applicant bear the additional cost of providing such extraordinary service, or in the alternative, require the applicant to purchase, install and maintain the necessary special equipment, such as a lift pumping system, needed to serve the premises.
- L. Customers must permit company representatives to enter their premises on reasonable request for purposes relating to the operation and maintenance of the company's system, including inspection of the customer's and the company's facilities, and terminating and restoring service.
- M. No person shall maliciously, willfully or negligently damage, destroy, uncover, deface, block access to or tamper with any pipe, valve, structure, appurtenance or equipment which is a part of the sewer works system.
- N. The Company reserves the right to change or amend, from time to time, these Rules, Regulations and Rates, in accordance with law.

5. Extension of Mains

Mains will be extended at the discretion of the Company.

6. Discontinuance of Service - Non-Payment

Service may be discontinued in accordance with South Carolina Code of Regulations 103-535, 103-535.1, 103-536.

GENERAL INFORMATION

Date of Issue: June 1, 2019

Date Effective: July 1, 2019

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7. Discontinuance of Service - Other

- A. Service rendered under any application, contract or agreement may be discontinued by the company after reasonable notice for any of the following reasons:
- (1) For non-authorized use of the sewer system.
 - (2) For failure to protect and maintain the service pipe or fixtures on the property of the customer in a condition satisfactory to the company.
 - (3) For tampering with any connections, service pipe, curb cock, seal or any other appliance of the company controlling or regulating the customer's sewer service facilities.
 - (4) For failure to provide the company's employees reasonable access to the premises supplied, or for obstructing the way of ingress to any appliances controlling or regulating the customer's sewer service.
 - (5) In case of vacancy of the premises.
 - (6) For violation of any rule or regulation of the company, provided such violation affects the reliability or integrity of the sewer system.
- B. Written notice of discontinuance of service shall contain the information as to the reason for discontinuance and will be given except in those instances where a public health hazard exists.
- C. The company may, at any time, temporarily discontinue sewer service in case of accident, or for the purpose of making connections, alterations, repairs, changes, etc.
- D. Except as stated in the preceding paragraph, or in the case of a violation that threatens the integrity of the sewer system, the company shall not discontinue service to any customer on a Friday, Saturday, Sunday, Public Holiday or on a day when the company is not open for business. Public Holiday shall refer to those holidays defined in S.C. Ann. §53-5-10

8. Restoration of Service

Restoration of service will be provided in accordance to South Carolina Code of Regulations 103-532.4.

SERVICE CLASSIFICATION NO. 1

Date of Issue: June 1, 2019

Date Effective: July 1, 2019

Issued by: John Darby, President

Applicable to use of Service for:

Residential and General Service use.

Character of Service:

Continuous.

Monthly Flat Rates and Connection Fees:

<u>General Service Customer Group</u>	<u>Monthly Rate per Unit</u>	<u>Monthly Rate per Sq. Ftg.</u>	<u>Connection Fee per Unit</u>	<u>Connection Fee per Sq. Ftg.</u>
Residential	\$ 85.00		\$4,500.00	
Workforce Housing	\$ 85.00		\$4,500.00	
Lodge Units	\$ 56.70		\$3,000.00	
Hotel Units	\$ 56.70		\$3,000.00	
Commercial		\$0.0567		\$3.00
Recreation Facilities		\$0.0567		\$3.00

Terms of Payment:

The above rate flat charges shall be rendered monthly in advance and are due and payable upon receipt. Bills not paid within 30 days of mailing are delinquent and the late payment charge becomes applicable. Service may be discontinued after proper notice, as identified herein.

The above connection fee is a one-time charge payable upon the initial connection to the Utility system.

Late Payment Charge:

A late payment charge to be computed at the rate of 1 1/2 percent per month, compounded monthly, may be applied to all balances left unpaid 30 days following mailing of the bill.

Termination:

Service is terminable at the customer's request by written or oral notice to the company. The Utility shall have a reasonable period of time after the receipt of notice to terminate service.

Service may be discontinued by the Utility for non-payment. The Utility must give 30 days' notice by certified mail and at the expiration of the 30 days will provide a second notice advising the customer that service will be terminated after 10 days.

Kiawah River Utility Company.

Original Leaf No. 7
Revised Leaf No. __
Superseding __ Revised Leaf No. __

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